

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

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4 AS PASSED BY THE SENATE

5 May 8, 2019

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H. 3659

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9 Introduced by Reps. McCoy, Rose, Ballentine, Wooten,
10 W. Newton, Mack, Sottile, Clary, Erickson, Herbkersman,
11 Pendarvis, Stavrinakis, Ott, Gilliard, Bennett, Caskey, Murphy,
12 Bernstein, Mace, Young, Garvin, Cobb-Hunter, Norrell, Thigpen,
13 Hyde, Jefferson, R. Williams, Funderburk, Huggins, Anderson,
14 Hardee, Cogswell, Tallon, Sandifer, West, Gagnon, Forrester,
15 Blackwell, Spires, Calhoun, B. Cox, Elliott, Morgan, Loftis,
16 Bradley, Willis, Toole, Henderson-Myers, Daning and B. Newton

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18 S. Printed 5/8/19--S.

19 Read the first time February 26, 2019.

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9 **A BILL**

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11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, TO ENACT THE "SOUTH CAROLINA ENERGY
13 FREEDOM ACT" BY ADDING SECTION 58-27-845 SO AS TO
14 ENUMERATE SPECIFIC RIGHTS OWED TO EVERY
15 ELECTRICAL UTILITY CUSTOMER IN SOUTH CAROLINA;
16 BY ADDING SECTION 58-27-2350 SO AS TO PROVIDE FOR
17 JUDICIAL REVIEW OF VIOLATIONS OF AN ELECTRICAL
18 UTILITY CUSTOMER'S RIGHTS; BY ADDING CHAPTER 41
19 TO TITLE 58 SO AS TO DEFINE RELEVANT TERMS, TO
20 REQUIRE PERIODIC HEARINGS TO REVIEW AND
21 APPROVE ELECTRICAL UTILITIES' AVOIDED COST
22 METHODOLOGIES, STANDARD OFFERS, FORM
23 CONTRACTS, AND COMMITMENT TO SELL FORMS, AND
24 TO ESTABLISH POLICIES AND PROCEDURES FOR THESE
25 HEARINGS, TO REQUIRE EACH ELECTRICAL UTILITY TO
26 FILE A VOLUNTARY RENEWABLE ENERGY PROGRAM
27 FOR THE COMMISSION'S REVIEW AND APPROVAL AND
28 TO ENUMERATE PROGRAM REQUIREMENTS, TO
29 REQUIRE EACH ELECTRICAL UTILITY TO ESTABLISH A
30 NEIGHBORHOOD COMMUNITY SOLAR PROGRAM PLAN
31 WITH A GOAL TO EXPAND ACCESS TO SOLAR ENERGY TO
32 LOW-INCOME COMMUNITIES AND CUSTOMERS, AND TO
33 ENUMERATE PROGRAM REQUIREMENTS; TO AMEND
34 SECTION 58-4-10, AS AMENDED, RELATING TO THE
35 OFFICE OF REGULATORY STAFF, SO AS TO REVISE THE
36 DEFINITION OF "PUBLIC INTEREST"; TO AMEND SECTION
37 58-27-460, RELATING TO THE PROMULGATION OF
38 STANDARDS FOR INTERCONNECTION OF RENEWABLE
39 ENERGY, SO AS TO, AMONG OTHER THINGS, INCREASE
40 THE MAXIMUM GENERATION CAPACITY OF THOSE
41 RENEWABLE ENERGY FACILITIES FOR WHICH THE
42 PUBLIC SERVICE COMMISSION SHALL PROMULGATE

Amend Title To Conform

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Renewable Energy Programs

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1 (6) 'Generation credit' means a credit applied by an electrical
2 utility to the bill of a participating customer that is equal to the value
3 of the energy and capacity avoided by the electrical utility as a result
4 of procuring energy and capacity from a renewable energy facility.

5 (7) 'Participating customer' means an eligible customer that
6 elects to have a portion or all of its electricity needs supplied by a
7 voluntary renewable energy program.

8 (8) 'Participating customer agreement' means an agreement
9 between a participating customer, its electrical utility, and the
10 renewable energy supplier establishing each party's rights and
11 obligations under the electrical utility's voluntary renewable energy
12 program.

13 (9) 'Power purchase agreement' means an agreement between
14 an electrical utility and a small power producer for the purchase and
15 sale of energy, capacity, and ancillary services from the small power
16 producer's qualifying small power production facility.

17 (10) 'PURPA' means the Public Utility Regulatory Policies Act
18 of 1978, as amended.

19 (11) 'Renewable energy contract' means a power purchase
20 agreement between an electrical utility and a renewable energy
21 supplier that commits the parties to participating in an electrical
22 utility's voluntary renewable energy program for the purchase and
23 sale of energy and capacity.

24 (12) 'Renewable energy facility' means a facility for the
25 production of electrical energy that utilizes a renewable generation
26 resource as defined in Section 58-39-120(F), that is placed in service
27 after the effective date of this chapter, and for which costs are not
28 included in an electrical utility's rates.

29 (13) 'Renewable energy supplier' means the owner or operator of
30 a renewable energy facility, including the affiliate of an electrical
31 utility that contracts with a participating customer.

32 (14) 'Small power producer' means a person or corporation
33 owning or operating a 'qualifying small power production facility'
34 as defined in 16 U.S.C. Section 796, as amended.

35 (15) 'Standard offer' means the avoided cost rates, power
36 purchase agreement, and terms and conditions approved by the
37 commission and applicable to purchases of energy and capacity by
38 electrical utilities as provided in this chapter from small power
39 producers up to two megawatts AC in size.

40 (16) 'Voluntary renewable energy program' means a tariff filed
41 with the commission by an electrical utility that enables a
42 participating commercial or industrial customer to receive and pay
43 for electric service, that reflects the program cost, and that includes

1 the environmental attributes specified in the participating customer
 2 agreement and renewable energy contract, including a generation
 3 credit for such renewable energy, from the electrical utility pursuant
 4 to the terms of the tariff.

5

6 Section 58-41-20. (A) As soon as is practicable after the
 7 effective date of this chapter, the commission shall open a docket
 8 for the purpose of establishing each electrical utility's standard
 9 offer, avoided cost methodologies, form contract power purchase
 10 agreements, commitment to sell forms, and any other terms or
 11 conditions necessary to implement this section. Within six months
 12 after the effective date of this chapter, and at least once every
 13 twenty-four months thereafter, the commission shall approve each
 14 electrical utility's standard offer, avoided cost methodologies, form
 15 contract power purchase agreements, commitment to sell forms, and
 16 any other terms or conditions necessary to implement this section.
 17 Within such proceeding the commission shall approve one or more
 18 standard form power purchase agreements for use for qualifying
 19 small power production facilities not eligible for the standard offer.
 20 Such power purchase agreements shall contain provisions,
 21 including, but not limited to, provisions for force majeure,
 22 indemnification, choice of venue, and confidentiality provisions and
 23 other such terms, but shall not be determinative of price or length of
 24 the power purchase agreement. The commission may approve
 25 multiple form power purchase agreements to accommodate various
 26 generation technologies and other project specific characteristics.
 27 This provision shall not restrict the right of parties to enter into
 28 power purchase agreements with terms that differ from the
 29 commission-approved form(s). Any decisions by the commission
 30 shall be just and reasonable to the ratepayers of the electrical utility,
 31 in the public interest, consistent with PURPA and the Federal
 32 Energy Regulatory Commission's implementing regulations and
 33 orders, and nondiscriminatory to small power producers; and shall
 34 strive to reduce the risk placed on the using and consuming public.

35 (1) Proceedings conducted pursuant to this section
 36 shall be separate from the electrical utilities' annual fuel cost
 37 proceedings conducted pursuant to Section 58-27-865.

38 (2) Proceedings shall include an opportunity for
 39 intervention, discovery, filed comments or testimony, and an
 40 evidentiary hearing.

41 (B) In implementing this chapter, the commission shall treat
 42 small power producers on a fair and equal footing with electrical
 43 utility-owned resources by ensuring that:

1 (1) rates for the purchase of energy and capacity fully and
2 accurately reflect the electrical utility's avoided costs;

3 (2) power purchase agreements, including terms and
4 conditions, are commercially reasonable and consistent with
5 regulations and orders promulgated by the Federal Energy
6 Regulatory Commission implementing PURPA; and

(3) each electrical utility's avoided cost methodology fairly accounts for costs avoided by the electrical utility or incurred by the electrical utility, including, but not limited to, energy, capacity, and ancillary services provided by or consumed by small power producers including those utilizing energy storage equipment. Avoided cost methodologies approved by the commission may account for differences in costs avoided based on the geographic location and resource type of a small power producer's qualifying small power production facility.

(C) The avoided cost rates offered by an electrical utility to a small power producer not eligible for the standard offer must be calculated based on the avoided cost methodology most recently approved by the commission. In the event that a small power producer and an electrical utility are unable to mutually agree on an avoided cost rate, the small power producer shall have the right to have any disputed issues resolved by the commission in a formal complaint proceeding. The commission may require mediation prior to a formal complaint proceeding.

(D) A small power producer shall have the right to sell the output of its facility to the electrical utility at the avoided cost rates and pursuant to the power purchase agreement then in effect by delivering an executed notice of commitment to sell form to the electrical utility. The commission shall approve a standard notice of commitment to sell form to be used for this purpose that provides the small power producer a reasonable period of time from its submittal of the form to execute a power purchase agreement. In no event, however, shall the small power producer, as a condition of preserving the pricing and terms and conditions established by its submittal of an executed commitment to sell form to the electrical utility, be required to execute a power purchase agreement prior to receipt of a final interconnection agreement from the electrical utility.

39 (E)(1) Electrical utilities shall file with the commission power
40 purchase agreements entered into pursuant to PURPA, resulting
41 from voluntary negotiation of contracts between an electrical utility
42 and a small power producer not eligible for the standard offer.

(2) The commission is authorized to open a generic docket for the purposes of creating programs for the competitive procurement of energy and capacity from renewable energy facilities by an electrical utility within the utility's balancing authority area if the commission determines such action to be in the public interest.

(3) In establishing standard offer and form contract power purchase agreements, the commission shall consider whether such power purchase agreements should prohibit any of the following:

(a) termination of the power purchase agreement, collection of damages from small power producers, or commencement of the term of a power purchase agreement prior to commercial operation, if delays in achieving commercial operation of the small power producer's facility are due to the electrical utility's interconnection delays; or

(b) the electrical utility reducing the price paid to the small power producer based on costs incurred by the electrical utility to respond to the intermittent nature of electrical generation by the small power producer.

(F)(1) Electrical utilities, subject to approval of the commission, shall offer to enter into fixed price power purchase agreements with small power producers for the purchase of energy and capacity at avoided cost, with commercially reasonable terms and a duration of ten years. The commission may also approve commercially reasonable fixed price power purchase agreements with a duration longer than ten years, which must contain additional terms, conditions, and/or rate structures as proposed by intervening parties and approved by the commission, including but not limited to, a reduction in the contract price relative to the ten year avoided cost. Notwithstanding any other language to the contrary, the commission will make such a determination in proceedings conducted pursuant to Section 58-41-20(A). The avoided cost rates applicable to fixed price power purchase agreements entered into pursuant to this item shall be based on the avoided cost rates and methodologies as determined by the commission pursuant to this section. The terms of this subsection apply only to those small power producers whose qualifying small power production facilities have active interconnection requests on file with the electrical utility prior to the effective date of this act. The commission may determine any other necessary terms and conditions deemed to be in the best interest of the ratepayers. This item is not intended, and shall not be construed, to abrogate small power producers' rights under PURPA that existed prior to the effective date of the act.

1 report are intended to be used by the commission along with all other
2 evidence submitted during the proceeding, to inform its ultimate
3 decision setting the avoided costs for each electrical utility. The
4 utilities may require confidentiality agreements with the
5 independent third party that do not impede the third-party analysis.
6 The utilities shall be responsive in providing all documents,
7 information, and items necessary for the completion of the report.
8 The independent third party shall also include in the report a
9 statement assessing the level of cooperation received from the utility
10 during the development of the report and whether there were any
11 material information requests that were not adequately fulfilled by
12 the electrical utility. Any party to this proceeding shall be able to
13 review the report including the confidential portions of the report
14 upon entering into an appropriate confidentiality agreement. The
15 commission and the Office of Regulatory Staff may not hire the
16 same third-party consultant or expert in the same proceeding or to
17 address the same or similar issues in different proceedings.

18 (J) Each electrical utility's avoided cost filing must be
19 reasonably transparent so that underlying assumptions, data, and
20 results can be independently reviewed and verified by the parties
21 and the commission. The commission may approve any
22 confidentiality protections necessary to allow for independent
23 review and verification of the avoided cost filing.

24
25 Section 58-41-30. (A) Within one hundred and twenty days of
26 the effective date of this chapter, subject to subsection (F), each
27 electrical utility shall file a proposed voluntary renewable energy
28 program for review and approval by the commission. The
29 commission shall conduct a proceeding to review the program and
30 establish reasonable terms and conditions for the program.
31 Interested parties shall have the right to participate in the
32 proceeding. The commission may periodically hold additional
33 proceedings to update the program. At a minimum, the program
34 shall provide that:

35 (1) the participating customer shall have the right to select the
36 renewable energy facility and negotiate with the renewable energy
37 supplier on the price to be paid by the participating customer for the
38 energy, capacity, and environmental attributes of the renewable
39 energy facility and the term of such agreement so long as such terms
40 are consistent with the voluntary renewable program service
41 agreement as approved by the commission;

42 (2) the renewable energy contract and the participating
43 customer agreement must be of equal duration;

1 (3) in addition to paying a retail bill calculated pursuant to the
 2 rates and tariffs that otherwise would apply to the participating
 3 customer, reduced by the amount of the generation credit, a
 4 participating customer shall reimburse the electrical utility on a
 5 monthly basis for the amount paid by the electrical utility to the
 6 renewable energy supplier pursuant to the participating customer
 7 agreement and renewable energy contract, plus an administrative fee
 8 approved by the commission; and

9 (4) eligible customers must be allowed to bundle their
 10 demand under a single participating customer agreement and
 11 renewable energy contract and must be eligible annually to procure
 12 an amount of capacity as approved by the commission.

13 (B) The commission may approve a program that provides for
 14 options that include, but are not limited to, both variable and fixed
 15 generation credit options.

16 (C) The commission may limit the total portion of each electrical
 17 utility's voluntary renewable energy program that is eligible for the
 18 program at a level consistent with the public interest and shall
 19 provide standard terms and conditions for the participating customer
 20 agreement and the renewable energy contract, subject to
 21 commission review and approval.

22 (D) A participating customer shall bear the burden of any
 23 reasonable costs associated with participating in a voluntary
 24 renewable energy program. An electrical utility may not charge any
 25 nonparticipating customers for any costs incurred pursuant to the
 26 provisions of this section.

27 (E) A renewable energy facility may be located anywhere in the
 28 electrical utility's service territory within the utility's balancing
 29 authority.

30 (F) If the commission determines that an electrical utility has a
 31 voluntary renewable energy program on file with the commission as
 32 of the effective date of this chapter, that conforms with the
 33 requirements of this section, the utility is not required to make a new
 34 filing to meet the requirements of subsection (A).

35
 36 Section 58-41-40. (A) It is the intent of the General Assembly
 37 to expand the opportunity to support solar energy and support access
 38 to solar energy options for all South Carolinians, including those
 39 who lack the income to afford the upfront investment in solar panels
 40 or those who do not own their homes or have suitable rooftops. The
 41 General Assembly encourages all electric service providers in this
 42 state to consider offering neighborhood community solar programs.

(B)(1) Within sixty days after the effective date of this chapter, the commission shall open a docket for each electrical utility to review the community solar programs established pursuant to Act 236 of 2014 and to solicit status information on existing programs from the electrical utilities.

(2) Within one hundred and eighty days after the commission opens the docket pursuant to item (1), the electrical utilities shall update their report on their existing programs and may propose new programs.

(C) Subject to review by the commission, a public utility must be entitled to full and timely cost recovery for all reasonable and prudent costs incurred in implementing and complying with this section. Participating customers shall bear the burden of any reasonable and prudent costs associated with participating in a neighborhood community solar program; however, the commission shall nonetheless promote access to solar energy projects for low and moderate income customers. An electrical utility may not charge any nonparticipating customers for any costs incurred pursuant to the provisions of this section."

SECTION 2. Article 7, Chapter 27, Title 58 of the 1976 Code is amended by adding:

"Section 58-27-845. (A) The General Assembly finds that there is a critical need to:

(1) protect customers from rising utility costs;

(2) provide opportunities for customer measures to reduce or manage electrical consumption from electrical utilities in a manner that contributes to reductions in utility peak electrical demand and other drivers of electrical utility costs; and

(3) equip customers with the information and ability to manage their electric bills.

(B) Every customer of an electrical utility has the right to a rate schedule that offers the customer a reasonable opportunity to employ such energy and cost saving measures as energy efficiency, demand response, or onsite distributed energy resources in order to reduce consumption of electricity from the electrical utility's grid and to reduce electrical utility costs.

(C) In fixing just and reasonable utility rates pursuant to Section 58-3-140 and Section 58-27-810, the commission shall consider whether rates are designed to discourage the wasteful use of public utility services while promoting all use that is economically justified in view of the relationships between cost incurred and benefits

(D) For each class of service, the commission must ensure that each electrical utility offers to each class of service a minimum of one reasonable rate option that aligns the customer's ability to achieve bill savings with long-term reductions in the overall cost the electrical utility will incur in providing electric service, including, but not limited to time-variant pricing structures.

(E) Every customer of an electrical utility has a right to obtain their own electric usage data in a machine-readable, accessible format to the extent such is readily available. Electrical utilities shall allow customers an electronic means to assent to share the customer's energy usage data with a third-party vendor designated by the customer."

SECTION 3. Section 58-40-10(C) of the 1976 Code is amended to read:

“(C) ‘Customer-generator’ means the owner, operator, lessee, or customer-generator lessee of an electric energy generation unit which:

(1) generates or discharges electricity from a renewable energy resource, including an energy storage device configured to receive electrical charge solely from an onsite renewable energy resource;

(2) has an electrical generating system with a capacity of:

(a) not more than the lesser of one thousand kilowatts (1,000 kW AC) or one hundred percent of contract demand if a nonresidential customer; or

(b) not more than twenty kilowatts (20 kW AC) if a residential customer;

(3) is located on a single premises owned, operated, leased, or otherwise controlled by the customer;

(4) is interconnected and operates in parallel phase and synchronization with an electrical utility and complies with the applicable interconnection standards;

(5) is intended primarily to offset part or all of the customer-generator's own electrical energy requirements; and

(6) meets all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters

1 Laboratories, the federal Energy Regulatory Commission, and any
2 local governing authorities.”

3
4 SECTION 4. Section 58-40-10 of the 1976 Code is amended by
5 adding an appropriately lettered subsection at the end to read:

6
7 “() ‘Solar choice metering measurement’ means the process,
8 method, or calculation used for purposes of billing and crediting at
9 the commission determined value.”

10
11 SECTION 5. Section 58-40-20 of the 1976 Code is amended to
12 read:

13
14 ~~“Section 58-40-20. (A) Net energy metering rates approved by~~
15 ~~the commission under the terms of this chapter shall be the exclusive~~
16 ~~net energy metering rates available to customer generators. Upon~~
17 ~~commission approval, such net energy metering rates shall~~
18 ~~supersede all prior net energy metering rates. Customer generators~~
19 ~~whose net energy metering facilities were energized prior to the~~
20 ~~availability of net energy metering rates approved by the~~
21 ~~commission under the terms of this chapter may remain in historic~~
22 ~~net energy metering programs through December 31, 2020.~~

23 (B) ~~An electrical utility shall make net energy metering available~~
24 ~~to customer generators on a first come, first served basis until the~~
25 ~~total nameplate generating capacity of net energy metering systems~~
26 ~~equals two percent of the previous five year average of the electrical~~
27 ~~utility’s South Carolina retail peak demand. No electrical utility~~
28 ~~shall be required to approve any application for interconnection~~
29 ~~from net energy metering customer generators if the total rated~~
30 ~~generating capacity of all applications for interconnection from net~~
31 ~~energy metering customer generators already approved to date by~~
32 ~~the electrical utility equals or exceeds two percent of the previous~~
33 ~~five year average of the electrical utility’s South Carolina retail peak~~
34 ~~demand.~~

35 (C) ~~If determined to be prudent by the commission, the electrical~~
36 ~~utility may furnish, install, own, and maintain metering equipment~~
37 ~~needed to measure the kilowatt hours purchased by the~~
38 ~~customer generator from the utility, the kilowatt hours generated or~~
39 ~~delivered to the electrical utility, and, if applicable under the utility’s~~
40 ~~tariffs, to measure the kilowatt demand delivered by the electrical~~
41 ~~utility to the customer generator. The electrical utility shall have the~~
42 ~~right to install special metering and load research devices on the~~
43 ~~customer generator’s equipment and the right to use the~~

~~(D) The net electrical energy measurement shall be calculated in the following manner:~~

(1) For a customer-generator, an electrical utility shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the electrical utility exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the electrical utility in accordance with normal practices for customers in the same rate class;

~~(3) Any energy generated by the customer generator that exceeds the energy supplied by the electrical utility during a billing period shall not be used to offset the nonvolumetric electricity charges for that billing period;~~

~~(4) The utility shall maintain an account of any net excess kWh credits accruing from the customer generator's excess generation and allow those kWh credits to be used to offset the customer generator's energy usage during future billing periods. Annually, the utility shall pay the customer generator for any accrued net excess generation at the utility's avoided cost for qualified facilities, zeroing out the customer generator's account of net excess kWh credits.~~

~~(E) Each electrical utility shall submit an annual net metering report to the Public Service Commission, with a copy to the Office of Regulatory Staff, including the following information for the previous calendar year:~~

~~(1) the total number of customer-generator facilities;~~

(2) ~~the estimated gross generating capacity of its net-metered customer generators;~~

(3) ~~the estimated net kilowatt hours received from customer generators.~~

~~(F) Any and all costs prudently incurred pursuant to the provisions of this chapter by an electrical utility as approved by the commission and any and all commission approved benefits conferred by a customer generator shall be recoverable by each entity respectively in the electrical utility's rates in accordance with these provisions:~~

~~(1) The electrical utility's general rates, tariffs, and any additional monthly charges or credits, in addition to any other charges or credits authorized by law, to recover the costs and confer the benefits of net energy metering shall include such measures necessary to ensure that the electrical utility recovers its cost of providing electrical service to customer generators and customers who are not customer generators.~~

~~(2) Any charges or credits prescribed in item (1), and the terms and conditions under which they may be assessed shall be in accordance with a methodology established through the proceeding described in item (4). The methodology shall be supported by an analysis and calculation of the relative benefits and costs of customer generation to the electrical utility, the customer generators, and those customers of the electrical utility that are not customer generators.~~

~~(3) Upon approval of the methodology provided for in item (4), each electrical utility shall file its analysis of the net cost to serve customer generators using the approved methodology and shall propose new net energy metering rates.~~

(4) No later than thirty days after the enactment of this act, the commission shall initiate a generic proceeding for purposes of implementing the requirements of this chapter with respect to the net energy metering rates, tariffs, charges, and credits of electrical utilities, specifically to establish the methodology to set any necessary charges and credits as required under items (1) and (2). All interested parties shall be allowed to participate. In its notice initiating such proceeding the commission must require the electrical utilities to propose methodologies required by item (1) and shall allow intervening parties to propose methodologies required by item (2). The Office of Regulatory Staff, pursuant to the requirements of Section 58-4-50, shall represent the public interest in this proceeding and shall serve as a facilitator to resolve disputes and issues between the parties to this proceeding.

(5) ~~In evaluating the benefits and costs of customer generation as required by item (2), and the methodology for calculating such benefits and costs, the Office of Regulatory Staff may engage third parties with relevant prior experience conducting distributed generation cost benefit studies. The cost of any experts and consultants engaged by the Office of Regulatory Staff for purposes of this proceeding shall be assessed to the electrical utilities pro rata based on their five year average of retail peak demand and shall be recoverable by those electrical utilities through the base rate for fuel costs established pursuant to Section 58-27-865.~~

(6) ~~In the event that the commission determines that future benefits from net energy metering are properly reflected in net metering rates because they provide quantifiable benefits to the utility system, its customers, or both, and to the degree such benefits are not then being recovered by the electrical utility in its base rates, then such future benefits shall be deemed an avoided cost and shall be recoverable pursuant to Section 58-27-865 by the electrical utility as an incremental cost of the distributed energy resource program.~~

(G) ~~In no event shall the net energy metering provisions of this chapter be construed as allowing customer generators to engage in meter aggregation, group/joint billing projects, and/or virtual net metering.~~

(H) ~~The commission shall approve an electrical utility's proposed net energy metering rates that meet the requirements of this chapter, provided that the commission has previously approved that electrical utility's application to participate in a distributed energy resource program pursuant to Chapter 39, Title 58.~~

(A) It is the intent of the General Assembly to:

(1) build upon the successful deployment of solar generating capacity through Act 236 of 2014 to continue enabling market-driven, private investment in distributed energy resources across the State by reducing regulatory and administrative burdens to customer installation and utilization of onsite distributed energy resources;

(2) avoid disruption to the growing market for customer-scale distributed energy resources; and

(3) require the commission to establish solar choice metering requirements that fairly allocate costs and benefits to eliminate any cost shift or subsidization associated with net metering to the greatest extent practicable.

(B) An electrical utility shall make net energy metering available to all customer-generators who apply before June 1, 2021, according to the terms and conditions provided to all parties in Commission Order No. 2015-194. Customer-generators who apply for net metering after the effective date of this act but before June 1, 2021, including subsequent owners of the customer-generator facility or premises, may continue net energy metering service as provided for in Commission Order No. 2015-194 until May 31, 2029.

(C) No later than January 1, 2020, the commission shall open a generic docket to:

(1) investigate and determine the costs and benefits of the current net energy metering program; and

1 (2) establish a methodology for calculating the value of the
2 energy produced by customer-generators.

3 (D) In evaluating the costs and benefits of the net energy
4 metering program, the commission shall consider:

5 (1) the aggregate impact of customer-generators on the
6 electrical utility's long-run marginal costs of generation,
7 distribution, and transmission;

8 (2) the cost of service implications of customer-generators on
9 other customers within the same class, including an evaluation of
10 whether customer-generators provide an adequate rate of return to
11 the electrical utility compared to the otherwise applicable rate class
12 when, for analytical purposes only, examined as a separate class
13 within a cost of service study;

14 (3) the value of distributed energy resource generation
15 according to the methodology approved by the commission in
16 Commission Order No. 2015-194;

17 (4) the direct and indirect economic impact of the net energy
18 metering program to the State; and

19 (5) any other information the commission deems relevant.

20 (E) The value of the energy produced by customer-generators
21 must be updated annually and the methodology revisited every five
22 years.

23 (F)(1) After notice and opportunity for public comment and
24 public hearing, the commission shall establish a 'solar choice
25 metering tariff' for customer-generators to go into effect for
26 applications received after May 31, 2021.

27 (2) In establishing any successor solar choice metering tariffs,
28 and in approving any future modifications, the commission shall
29 determine how meter information is used for calculating the solar
30 choice metering measurement that is just and reasonable in light of
31 the costs and benefits of the solar choice metering program.

32 (3) A solar choice metering tariff shall include a methodology
33 to compensate customer-generators for the benefits provided by
34 their generation to the power system. In determining the appropriate
35 billing mechanism and energy measurement interval, the
36 commission shall consider:

37 (a) current metering capability and the cost of upgrading
38 hardware and billing systems to accomplish the provisions of the
39 tariff;

40 (b) the interaction of the tariff with time-variant rate
41 schedules available to customer-generators and whether different
42 measurement intervals are justified for customer-generators taking
43 service on a time-variant rate schedule;

(C) To comply with the terms of this article, each customer-generator lessee renewable electric generation facility shall serve only one premises or residence, and shall not serve multiple customer-generator lessees or multiple premises or residences.

(D) Any lease of a renewable electric generation facility not entered into pursuant to this article is prohibited. The owner of a renewable electric generation facility subject to any lease entered into outside of this program shall be considered an 'electrical utility' under Section 58-27-10.

(E) This section shall not be construed as allowing any sales of electricity from renewable electric generation facilities directly to any customer of any retail electric provider by the owner. This article shall not be construed as abridging or impairing any existing rights or obligations, established by contract or statute, of retail electric providers to serve South Carolina customers. The electrical output from any renewable electric generation unit leased pursuant to this program shall be the sole and exclusive property of the customer-generator lessee.

(F) An entity and its affiliates that lawfully provide retail electric service to the public may offer leases of renewable generation facilities in those areas or territories where it provides retail electric service. No such provider or affiliate shall offer or enter into leases of renewable generation facilities in areas served by another retail electric provider.

(G) The costs an electrical utility incurs in marketing, installing, owning, or maintaining solar leases through its own leasing

1 programs as a lessor shall not be recovered from other
 2 nonparticipating electrical utility customers through rates, provided,
 3 however, that an electrical utility and the customer-generator lessees
 4 which lease facilities from it may participate on an equal basis with
 5 other lessors and lessees in any applicable programs provided
 6 pursuant to Chapter 39 of this title and nothing in this section shall
 7 prevent the reasonable and prudent costs of a utility's distributed
 8 energy resource programs, including the provision of incentives to
 9 its own lessees and other allowable costs, from being reflected in a
 10 utility's rates as provided for in Chapter 39 or as otherwise permitted
 11 under generally applicable regulatory principles.

12 ~~(H) The total installed capacity of all renewable electric~~
 13 ~~generation facilities on a retail electric provider's system that are~~
 14 ~~leased pursuant to this article shall not exceed two percent of the~~
 15 ~~previous five year average of the retail electric provider's South~~
 16 ~~Carolina residential and commercial contribution to coincident~~
 17 ~~retail peak demand and two percent of the previous five year~~
 18 ~~average of the retail electric provider's South Carolina industrial~~
 19 ~~contribution to coincident retail peak demand. A provider may~~
 20 ~~refuse to interconnect with customers where to do so would result~~
 21 ~~in this limitation being exceeded. Every retail electric provider must~~
 22 ~~establish a program for new installations of leased equipment to~~
 23 ~~permit the reservation of capacity on its system including provisions~~
 24 ~~to prevent or discourage abuse of such programs. Such programs~~
 25 ~~must provide that only prospective individual customer-generator~~
 26 ~~lessees may apply for, receive, and hold reservations. Each~~
 27 ~~reservation shall be for a single customer premises only and may not~~
 28 ~~be sold, exchanged, traded, or assigned except as part of the sale of~~
 29 ~~the underlying premises. Requests for reservations to electrical~~
 30 ~~utilities as defined in Section 58-27-10 shall accompany~~
 31 ~~applications for interconnection of the leased facilities pursuant to~~
 32 ~~Chapter 40, Title 58 and the reservation shall remain in force only~~
 33 ~~so long as the application or permit for interconnection remains~~
 34 ~~active. Electrical utilities as defined in Section 58-27-10 shall~~
 35 ~~submit programs establishing the terms of such reservations to the~~
 36 ~~commission for approval.~~

37 ~~(I) Notwithstanding the provisions of subsection (H), for an~~
 38 ~~electrical utility for which more than fifty percent of the electricity~~
 39 ~~that it generates in South Carolina comes from renewable resources,~~
 40 ~~the total installed capacity of all renewable electric generation~~
 41 ~~facilities on its system that are leased pursuant to this article shall~~
 42 ~~not exceed one tenth of one percent of the previous five year~~
 43 ~~average of the electrical utility's South Carolina residential and~~

1 ~~commercial contribution to coincident retail peak demand and~~
2 ~~one-tenth of one percent of the previous five-year average of the~~
3 ~~electrical utility's South Carolina industrial contribution to~~
4 ~~coincident retail peak demand. Electrical utilities meeting the~~
5 ~~requirements of this subsection shall not be required to establish a~~
6 ~~capacity reservation program as required by subsection (H).~~

7 ~~(H)~~(H)(1) The provisions of this Article 23 related to leased
8 generation facilities shall not apply to:

9 (a) facilities serving a single premises that are not
10 interconnected with a retail electric provider;

11 (b) facilities owned by customer-generators but financed
12 by a third party; or

13 (c) facilities used exclusively for standby emergency
14 service or participation in an approved standby generation program
15 operated by a retail electric provider.

16 (2) The commission may promulgate regulations consistent
17 with this section interpreting the scope of these exemptions as to
18 electrical utilities.”

19
20 SECTION 7. Section 58-37-40 of the 1976 Code is amended to
21 read:

22
23 “Section 58-37-40. (A) ~~Electrical utilities and the South~~
24 ~~Carolina Public Service Authority must prepare integrated resource~~
25 ~~plans. The South Carolina Public Service Authority and electrical~~
26 ~~utilities regulated by the Public Service Commission must submit~~
27 ~~their plans to the State Energy Office. The plan submitted by the~~
28 ~~South Carolina Public Service Authority must be developed in~~
29 ~~consultation with electric cooperatives and municipally-owned~~
30 ~~electric utilities purchasing power and energy from the authority and~~
31 ~~must include the effect of demand-side management activities of~~
32 ~~electric cooperatives and municipally-owned electric utilities which~~
33 ~~directly purchase power and energy from the authority or sell power~~
34 ~~and energy which the authority generates. All plans must be~~
35 ~~submitted every three years and must be updated on an annual basis.~~
36 ~~The first integrated resource plan of the South Carolina Public~~
37 ~~Service Authority must be submitted no later than June 30, 1993.~~
38 ~~An integrated resource plan may be patterned after the integrated~~
39 ~~resource planning process developed by the Public Service~~
40 ~~Commission. For electrical utilities subject to the jurisdiction of the~~
41 ~~commission, submission of their plans as required by the~~
42 ~~commission constitutes compliance with this section. Nothing in~~
43 ~~this subsection may be construed as requiring interstate natural gas~~

1 ~~companies whose rates and services are regulated only by the~~
 2 ~~federal government or gas utilities subject to the jurisdiction of the~~
 3 ~~South Carolina Public Service Commission to prepare and submit~~
 4 ~~an integrated resource plan. Electrical utilities, electric cooperatives,~~
 5 ~~municipally-owned electric utilities, and the South Carolina Public~~
 6 ~~Service Authority must each prepare an integrated resource plan. An~~
 7 ~~integrated resource plan must be prepared and submitted at least~~
 8 ~~every three years. Nothing in this section may be construed as~~
 9 ~~requiring interstate natural gas companies whose rates and services~~
 10 ~~are regulated only by the federal government or gas utilities subject~~
 11 ~~to the jurisdiction of the commission to prepare and submit an~~
 12 ~~integrated resource plan.~~

13 (1) Each electrical utility must submit its integrated resource
 14 plan to the commission. The integrated resource plan must be posted
 15 on the electrical utility's website and on the commission's website.

16 (2) (B) Electric cooperatives and municipally-owned electric
 17 utilities must shall each submit an integrated resource plans to the
 18 State Energy Office. Each integrated resource plan must be posted
 19 on the State Energy Office's website. If an electric cooperative or
 20 municipally-owned utility has a website, its integrated resource plan
 21 must also be posted on its website, whenever they are required by
 22 federal law to prepare these plans or if they plan to acquire, by
 23 purchase or construction, ownership of additional generating
 24 capacity greater than twelve megawatts per unit. An integrated
 25 resource plan must be submitted to the State Energy Office by an
 26 electric cooperative or municipally-owned electric utility twelve
 27 months before the acquisition, by purchase or construction, of
 28 additional generating capacity in excess of twelve megawatts per
 29 unit. For an electric cooperative, submission to the State Energy
 30 Office of its plan in a format complying with the then current Rural
 31 Electrification Administration regulations constitutes compliance
 32 with this section. For distribution electric cooperatives that are
 33 members of a cooperative that provides wholesale service, the
 34 integrated resource plan may be coordinated and consolidated into
 35 a single plan provided that non-shared resources or programs of
 36 individual distribution cooperatives are highlighted. Where plan
 37 components listed in item (B)(1) and (B)(2) of this section do not
 38 apply to a distribution or wholesale cooperative or a municipally
 39 owned electric utility as a result of the cooperative or the
 40 municipally owned electric utility not owning or operating
 41 generation resources, the plan may state that fact or refer to the plan
 42 of the wholesale power generator. For purposes of this section, a
 43 wholesale power generator does not include a municipally created

(3) The South Carolina Public Service Authority shall submit its integrated resource plan to the State Energy Office. The integrated resource plan must be developed in consultation with the electric cooperatives and municipally-owned electric utilities purchasing power and energy from the Public Service Authority and consider any feedback provided by retail customers and shall include the effect of demand-side management activities of the electric cooperatives and municipally owned electric utilities that directly purchase power and energy from the Public Service Authority or sell power and energy generated by the Public Service Authority. The integrated resource plan must be posted on the State Energy Office's website and on the Public Service Authority's website.

(a) a long-term forecast of the utility's sales and peak demand under various reasonable scenarios;

(c) projected energy purchased or produced by the utility from a renewable energy resource;

(d) a summary of the electrical transmission investments planned by the utility;

(e) several resource portfolios developed with the purpose of fairly evaluating the range of demand-side, supply-side, storage, and other technologies and services available to meet the utility's service obligations. Such portfolios and evaluations must include an

1 utility's annual update must describe the impact of the updated base
 2 planning assumptions on the selected resource plan.

3 (2) The Office of Regulatory Staff shall review each electric
 4 utility's annual update and submit a report to the commission
 5 providing a recommendation concerning the reasonableness of the
 6 annual update. After reviewing the annual update and the Office of
 7 Regulatory Staff report, the commission may accept the annual
 8 update or direct the electrical utility to make changes to the annual
 9 update that the commission determines to be in the public interest.

10 (E) The commission is authorized to promulgate regulations to
 11 carry out the provisions of this section."

12
 13 SECTION 8. Chapter 37, Title 58 of the 1976 Code is amended by
 14 adding:

15
 16 "Section 58-37-60. (A) The commission and the Office of
 17 Regulatory Staff are authorized to initiate an independent study to
 18 evaluate the integration of renewable energy and emerging energy
 19 technologies into the electric grid for the public interest. An
 20 integration study conducted pursuant to this section shall evaluate
 21 what is required for electrical utilities to integrate increased levels
 22 of renewable energy and emerging energy technologies while
 23 maintaining economic, reliable, and safe operation of the electricity
 24 grid in a manner consistent with the public interest. Studies shall be
 25 based on the balancing areas of each electrical utility. The
 26 commission shall provide an opportunity for interested parties to
 27 provide input on the appropriate scope of the study and also to
 28 provide comments on a draft report before it is finalized. All data
 29 and information relied on by the independent consultant in
 30 preparation of the draft study shall be made available to interested
 31 parties, subject to appropriate confidentiality protections, during the
 32 public comment period. The results of the independent study shall
 33 be reported to the General Assembly.

34 (B) The commission may require regular updates from utilities
 35 regarding the implementation of the state's renewable energy
 36 policies.

37 (C) The commission may hire or retain a consultant to assist with
 38 the independent study authorized by this section. The commission
 39 is exempt from complying with the State Procurement Code in the
 40 selection and hiring of the consultant authorized by this subsection."

41
 42 SECTION 9. Section 58-33-110 of the 1976 Code is amended by
 43 adding an item at the end to read:

[3659]

(2) The commission shall, within six months of the effective date of the amendments to this section, establish proceedings for the purpose of considering revisions to the standards promulgated pursuant to this section. In developing such revisions, the commission may consider any issue, which, in the exercise of its discretion, the commission deems relevant to improving the fairness and effectiveness of the procedures.

(3) In implementing item (1), the commission shall ensure such standards provide for efficient and timely processing of interconnection requests and take into account the impact of generator interconnection on electrical utility system assets, service reliability, and power quality. Such standards shall address the impact of the addition of energy storage and the interconnection processes for amending existing interconnection requests to include energy storage. The commission shall enact standards that are fair, reasonable, and nondiscriminatory with respect to interconnection applicants, other utility customers, and electrical utilities, and the standards shall serve the public interest in terms of overall cost and system reliability.

(B) No ~~customer generator or customer generator lessee~~ generating facility shall connect or operate an ~~electric generation unit~~ in parallel phase and synchronization with any electrical utility without written approval by the electrical utility that all of the commission's requirements have been met. For a ~~customer generator or customer generator lessee who~~ generating facility that violates this provision, an electrical utility immediately may and without notice disconnect the ~~electric facilities of the customer generator or customer generator lessee and terminate the customer generator's or customer generator lessee's~~ generating facility electric service.

(C) In the event of a dispute between an interconnection customer and the electrical utility on an issue relating to interconnection service, the parties first shall attempt to resolve the claim or dispute using any dispute resolution procedures provided for pursuant to the applicable interconnection standards

1 regulations shall provide for the appropriate disclosure provided by
 2 sellers and lessors. Sellers must comply with Title 37. Nothing
 3 herein alters existing protections afforded by Title 37.

4 (2) To fulfill the duties and responsibilities provided for in
 5 this section, the Office of Regulatory staff shall develop a formal
 6 complaint process as part of the consumer protection regulations.

7 (B) The Office of Regulatory Staff is authorized to enforce any
 8 applicable consumer protection provision set forth in this title by:

9 (1) conducting an investigation into an alleged violation;

10 (2) issuing a cease and desist order against a further violation;

11 (3) imposing an administrative fine not to exceed two
 12 thousand five hundred dollars per violation on a solar company that
 13 materially fails to comply with the consumer protection
 14 requirements; and

15 (4) voiding the agreement if necessary to remedy the violation
 16 or violations.”

17

18 SECTION 12. Section 58-4-10(B) of the 1976 Code is amended to
 19 read:

20

21 “(B) Unless and until it chooses not to participate, the Office of
 22 Regulatory Staff must be considered a party of record in all filings,
 23 applications, or proceedings before the commission. The regulatory
 24 staff must represent the public interest of South Carolina before the
 25 commission. For purposes of this chapter only, “public interest”
 26 means the concerns of the using and consuming public with respect
 27 to public utility services, regardless of the class of customer, and
 28 preservation of continued investment in and maintenance of utility
 29 facilities so as to provide reliable and high quality utility services.”

30

31 SECTION 13. Section 58-4-100 of the 1976 Code is amended to
 32 read:

33

34 “(A) To the extent necessary to carry out regulatory staff
 35 responsibilities, the executive director is authorized to employ
 36 expert witnesses and other professional expertise as the executive
 37 director may consider necessary to assist the regulatory staff in its
 38 participation in commission proceedings. The compensation paid to
 39 these persons may not exceed compensation generally paid by the
 40 regulated industry for such specialists. The compensation and
 41 expenses therefor must be paid by the public utility or utilities
 42 participating in the proceedings upon agreement between the public
 43 utility or utilities participating in the proceedings and the Office of

1 Regulatory Staff or upon approval by the Review Committee or
 2 from the regulatory staff's budget. If paid by the public utility or
 3 utilities, the compensation and expenses must be treated by the
 4 commission, for ratemaking purposes, in a manner generally
 5 consistent with its treatment of similar expenditures incurred by
 6 utilities in the presentation of their cases before the commission. An
 7 accounting of compensation and expenses must be reported
 8 annually to the review committee, the Speaker of the House of
 9 Representatives, and the Chairman of the Senate Judiciary
 10 Committee.

11 (B) The Office of Regulatory Staff is exempt from the State
 12 Procurement Code in the selection and hiring of an expert or third-
 13 party consultant to conduct an independent study described in
 14 Section 58-37-60 and Section 58-41-20(H). However, the Office of
 15 Regulatory Staff and the commission may not hire the same expert
 16 or third-party consultant in the same proceeding or to address the
 17 same or similar issues in different proceedings."

18
 19 SECTION 14. The provisions of Section 58-41-20 shall not be
 20 interpreted to supersede the conditions of any settlement entered
 21 into by an electrical utility and filed with the commission prior to
 22 the adoption of this act.

23
 24 SECTION 15. All costs incurred by the utility necessary to
 25 effectuate this act, that are not precluded from recovery by other
 26 provisions of this act and that do not have a recovery mechanism
 27 otherwise specified in other provisions of the act or established by
 28 state law, shall be deferred for commission consideration of
 29 recovery in any proceeding initiated under Section 58-27-870, if
 30 deemed reasonable and prudent.

31
 32 SECTION 16. Notwithstanding another provision of this act, or
 33 another provision of law, no costs or expenses incurred nor any
 34 payments made by the electrical utility in compliance or in
 35 accordance with this act must be included in the electrical utility's
 36 rates or otherwise be borne by the general body of South Carolina
 37 retail customers of the electrical utility without an affirmative
 38 finding supported by the preponderance of evidence of record and
 39 conclusion in a written order by the Public Service Commission that
 40 such expense, cost or payment was reasonable and prudent and
 41 made in the best interest of the electrical utility's general body of
 42 customers.

43

13

16

17